

House Bill 591

By: Representatives Hitchens of the 161<sup>st</sup> and Lumsden of the 12<sup>th</sup>

A BILL TO BE ENTITLED  
AN ACT

To amend Chapter 17 of Title 47 of the Official Code of Georgia Annotated, relating to the Peace Officers' Annuity and Benefit Fund, so as to increase the amount of membership dues; to provide for a premium tax on motor vehicle liability and casualty insurance policies; to provide for payment of such funds to the retirement fund; to provide for reporting; to provide for penalties for noncompliance; to provide for related matters; to provide conditions for an effective date and automatic repeal; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

**SECTION 1.**

Chapter 17 of Title 47 of the Official Code of Georgia Annotated, relating to the Peace Officers' Annuity and Benefit Fund, is amended by revising Code Section 47-17-44, relating to amount of dues, deadline and minimum period for payments, dues required for credit for service after March 1, 1951, and dues required for prior service credit, as follows:

"47-17-44.

(a) Each member shall pay into the fund as dues the sum of ~~\$20.00~~ \$30.00 per month. Each month's dues shall be paid not later than the tenth day of that month. Each member shall be required to pay such dues for a minimum period of ten years before being eligible to receive the retirement benefits under this chapter, provided that, if such member is eligible to retire under this chapter and so desires, such member may retire, and the board shall deduct such monthly amount from his or her retirement benefits until he or she has paid dues into the fund for a period of ten years.

(b) No member shall receive credit for any service performed after March 1, 1951, unless such member has paid into the fund the amount required for such service. Upon application of any peace officer who applies for membership and who owes dues for service since March 1, 1951, the board may allow and provide for periodic payments of such dues over a period of not more than 36 months immediately subsequent to the date of his or her acceptance as a member.

(c) Except as provided in subsection (d) of this Code section, any member of the fund who has not obtained creditable service for prior service pursuant to the provisions of subsection (a) of Code Section 47-17-70 may obtain such service by tendering to the board an amount equal to the dues at the rate of ~~\$20.00~~ \$30.00 per month plus 10 percent interest per annum compounded annually from the date the prior service was rendered to the date of payment for all years claimed as prior service; provided, however, that no member shall be allowed to purchase more than a total of five years of such creditable service; provided, further, however, that any member who becomes or again becomes a member of the fund on or after July 1, 1994, must have been an active member of the fund for five years or more to obtain the prior service credit provided for in this subsection.

(d) Any member of the fund who qualifies for membership under the definition contained in subparagraph (J) of paragraph (5) of Code Section 47-17-1 who has not obtained creditable service for prior service pursuant to the provisions of subsection (a) of Code Section 47-17-70 may obtain such service by tendering to the board an amount equal to the dues at the rate of ~~\$20.00~~ \$30.00 per month plus 10 percent interest per annum compounded annually from the date the prior service was rendered to the date of payment for all years claimed as prior service."

## SECTION 2.

Said chapter is further amended by adding a new Code section to read as follows:

"47-17-62.

(a)(1) Every insurance company, corporation, or association doing business within this state and writing private or commercial motor vehicle liability and casualty coverage covering risks located within this state shall, on or before March 1 of each year, file a return with and pay to the Peace Officers' Annuity and Benefit Fund a tax of 0.25 percent of the amounts properly reported for the calendar year preceding the filing of such return on the Exhibit of Premiums and Losses of the Annual Statement form for property and casualty insurance companies adopted by the National Association of Insurance Commissioners as required by Title 33 or by the regulations of the Commissioner of Insurance with respect to business conducted within this state to be filed by such company, corporation, or association with the Commissioner of Insurance.

(2) Returns shall be made on forms prescribed by the board. Such forms shall require, without limitation, a separate statement of the gross premiums from policies covering motor vehicle liability and casualty insurance.

(3) Taxes imposed by this Code section shall bear interest from the due date until paid at the rate of interest which judgments entered in the courts of this state bear as prescribed by law.

(4) The tax imposed by this Code section is in addition to any and all other premium taxes now imposed by law.

(5) If the Exhibit of Premiums and Losses of the Annual Statement form for property and casualty insurance companies adopted by the National Association of Insurance Commissioners required by Title 33 or by the regulations of the Commissioner of Insurance to be filed by such company, corporation, or association with the Commissioner of Insurance is changed, the board shall by regulation designate and set forth in the form of tax returns prescribed by the board the portions of the annual return required to be filed by such company, corporation, or association with the Commissioner of Insurance thereunder, which corresponds in content to the requirements to report and calculate the tax imposed under paragraph (1) of this subsection.

(b) If a motor vehicle liability and casualty insurance company, corporation, or association knowingly or willfully fails to file a return or pay the taxes imposed by this Code section, the executive director of the fund shall report such delinquency to the Commissioner of Insurance. The Commissioner of Insurance is authorized and directed upon receipt of such report, after notice and hearing, immediately to cancel such delinquent's license to do business within this state.

(c) If any motor vehicle liability and casualty insurance company, corporation, or association knowingly or willfully fails to file a return or pay the taxes due imposed by this Code section, there shall be imposed, in addition to the tax and interest thereon, a penalty not greater than 25 percent of the taxes due or \$1,000.00, whichever is greater, in the discretion of the board.

(d) The board may in its name bring such actions as it may determine appropriate to collect any liability imposed by this Code section.

(e)(1) A claim for the refund of any tax erroneously or illegally assessed and collected or paid, including any claim that the tax was imposed under a statute or an application of a statute which violates the Georgia Constitution or the Constitution of the United States, may be made by the taxpayer in writing filed with the board at any time within one year after the date on which the board received such tax. Such written claim shall include a detailed statement of the grounds upon which the taxpayer relies. Following the filing of such claim, the taxpayer shall provide to the board such additional information as the board in writing requires to evaluate the claim. The taxpayer's failure to provide any information so requested which is available to the taxpayer shall permit the board to deny the claim and shall bar any subsequent taxpayer suit for refund permitted by this Code section.

(2) A taxpayer whose timely claim for refund is denied or has not been decided by the board within 180 days after it is filed may bring an action for a refund of not more than

the amount set forth in the claim. Such action shall be brought in the superior court of the county in which the board's principal office is located. Such action shall name the Georgia Peace Officers' Annuity and Benefit Fund as the defendant and not members of the board or any officer or employee of the board. Service of the summons and complaint in such action shall be made upon the executive director of the fund. No such action shall be commenced after the expiration of 180 days after the claim has been denied by the board or, if the board has not acted on the claim, within one year of the date the claim was filed with the board.

(3) No sum for which a refund is determined to be due shall bear interest until and only from the date the board has approved the claim or a final judgment for such amount has been entered. Such interest shall be calculated at the rate of 7 percent per annum.

(4) Except as provided in this subsection, no taxpayer shall be authorized to obtain a refund or maintain any action or proceeding for refund and no court shall have jurisdiction to award any refund against the fund or the board or its members, officers, or employees."

### **SECTION 3.**

This Act shall become effective on July 1, 2016, only if it is determined to have been concurrently funded as provided in Chapter 20 of Title 47 of the Official Code of Georgia Annotated, the "Public Retirement Systems Standards Law"; otherwise, this Act shall not become effective and shall be automatically repealed in its entirety on July 1, 2016, as required by subsection (a) of Code Section 47-20-50.

### **SECTION 4.**

All laws and parts of laws in conflict with this Act are repealed.